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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 384.

WINNEBAGO INDIANS OF NEBRASKA AND WISCONSIN.

MARCH 1, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. STEPHENS of Nebraska, from the Committee on Indian Affairs, submitted the following

REPORT.

[To accompany H. R. 18849.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 18849) for the relief of the Winnebago Indians of Nebraska and Wisconsin, having considered the same, recommend that it do pass.

The object of this bill is to empower the Secretary of the Interior to adjust the indebtedness of the Nebraska branch to the Wisconsin branch of the Winnebago Indians. These two bands of Indians have a capitalized fund, amounting March 3, 1909, to $883,249.58, which can not be adjusted between them without this legislation. The report of the Department of the Interior, together with a history of the capitalized fund prepared by the Department of the Interior for Senator Clapp, are appended hereto and are as follows:

DEPARTMENT OF THE INTERIOR,
Washington, January 24, 1912.

Hon. DAN V. STEPHENS,
House of Representatives.

SIR: The department is in receipt of your letter of January 5, 1912, inclosing with request for report thereon a copy of a proposed bill for the relief of the Winnebago Indians of Nebraska and Wisconsin.

In response I have the honor to advise you that the department is of the opinion that the proposed bill, if enacted into law, will provide the necessary authority for the prompt adjustment of the affairs of the two branches of the tribe and enable the department to pay the proportionate shares of the Nebraska branch, as provided under the act approved March 3, 1909 (35 Stat.,781, 798), and also to expend the share of the Wisconsin branch of the tribe for their benefit in such manner as may seem to be for their best interests.

Regarding the origin of the funds of the Winnebago Indians, there is inclosed herewith for your information a copy of a letter dated February 21, 1911, addressed to Hon. Moses E. Clapp, United States Senate, by the Acting Commissioner of Indian Affairs on the subject.

By the act approved March 3, 1909, supra, the funds of the Winnebago Indians were capitalized in the total sum of $883,249.58, and should the bill now under consideration be enacted into law the adjustment of the present indebtedness of the Nebraska

branch to the Wisconsin branch of the tribe can be promptly made, and the proportionate share of each branch of the tribe in the said capitalized fund can then be determined and placed to its respective credit.

The department has to-day submitted to the chairmen of the Committees on Indian Affairs of the Senate and House of Representatives, respectively, a draft of legislation substantially the same as the draft submitted by you, the only change being that the words "or, in his discretion, to distribute said funds or any part thereof per capita among said Indians" have been inserted after the word "proper" in line 8 of the draft submitted by you. It is believed the Secretary should have discretion to make payments in cash to these Indians if circumstances seem to justify that course.

The draft of bill submitted by you is returned herewith.

Very respectfully,

CARMI A. THOMPSON,
Acting Secretary.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 21, 1911.

Hon. MOSES E. CLAPP,
United States Senate.

SIR: I have the honor to submit the following report concerning the funds and land matters of the Winnebago Indians requested in your letter of December 22, 1910, in addition to the information set forth in department letter to you of February 6, 1911.

First. By article 4 of the treaty of November 1, 1837 (7 Stat. L., 545), it is provided:

"That the United States shall invest the sum of one million one hundred thousand dollars, being the balance of the proceeds of the sale of the lands of the Winnebago Indians ceded to the Government east of the Mississippi River, and guarantee to them not less than five per cent interest thereon."

In regard to the amount disbursed from the trust funds of these Indians and the authority therefor, attention is invited to the following acts and references:

By joint resolution of July 17, 1862 (12 Stat. L., 628), it is provided:

"That the Secretary of the Interior be, and he is hereby authorized to expend, from the fund in the Treasury of the United States belonging to the Winnebago Indians, the sum of fifty thousand dollars, or so much thereof as may be necessary, to make such improvements upon their lands and purchase such stock and agricultural implements as their necessities may require, and that the amount so expended shall be replaced from the proceeds of the sales of the lands belonging to said Indians which the Government is now authorized to sell by virtue of an existing treaty with said Indians."

This money was disbursed by Clark W. Thompson, superintendent, on requisitions dated May 13 and July 27, 1863, in carrying out the provisions of the act.

By the provisions of section 1 of the act of February 21, 1863 (12 Stat. L., 659), it is provided:

"That the President of the United States is authorized to assign and set apart for the Winnebago Indians a tract of unoccupied land beyond the limits of any State in extent at least equal to their diminished reservation, the same to be well adapted for agricultural purposes; and it shall be lawful for the President to take such steps as he may deem proper to effect the peaceful and quiet removal of the said Indians from the State of Minnesota, and to settle them upon the lands which may be assigned to them under the provisions of this act."

The act of March 3, 1863 (12 Stat. L., 785), provides in part as follows:

* * * "and the sum of fifty thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money not otherwise appropriated, to enable the President of the United States to arrange for and effect a peaceful and quiet removal of said Indians to some suitable location outside the limits of any State, the said sum to be taken from and charged to said fund of one million one hundred thousand dollars, held by the United States for said Indians under the aforesaid treaty of first November, eighteen hundred and thirty-seven, and that the amount so appropriated shall be replaced from the proceeds of the sales of lands belonging to said Indians which the Government may be authorized to sell by virtue of an existing treaty with said Indians and by act of Congress."

The amount thus authorized was expended by Clark W. Thompson, superintendent, on requisition dated May 18, 1863, for the purposes mentioned in the act, which amount, with the $50,000 authorized by the act of July 17, 1862, reduced the trust fund of the Winnebagoes to $1,000,000.

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The act of July 15, 1870 (16 Stat. L., 355), provides as follows:

"For the purpose of refunding to the Winnebago Indians the amount taken from their tribal funds to pay the expenses of their removal from Minnesota, the sum of two hundred thirty-two thousand three hundred forty-five dollars and ninety-nine cents, of which amount two hundred thousand dollars shall be placed to the credit of these Indians on the books of the Treasury on which shall be allowed five per cent per annum, the income therefrom to be expended under the direction of the Secretary of the Interior for the erection of houses, the improvement of their allotments of land, the purchase of stock, agricultural implements, seeds, and other beneficial purposes."

The sum of $200,000 mentioned in the act of July 15, 1870, was carried to the surplus fund by warrant No. 531, dated June 30, 1871, and placed to the credit of the Winnebagoes on the books of the Treasury, bearing interest at 5 per cent per annum.

Section 9 of the act of July 15, 1870 (16 Stat. L., 361), provides as follows:

"That the Secretary of the Interior be, and hereby is, directed to cause to be investigated and to determine the claims of certain Indians of the Winnebago tribe now lawfully residing in the State of Minnesota, to issue patents without the right of alienation to those of them whom he shall find to be entitled thereto, for lands heretofore allotted to them in severalty * * * and the said Winnebago Indians and all others being members of said tribe lawfully residing in the State of Minnesota shall hereafter be entitled to receive their pro rata distributive proportion of all annuities in goods, money, or property, and any other moneys to which said tribe is or may be entitled under any law or treaty now in force, at their homes in Minnesota, the same as though they had removed west and settled with the western Winnebagoes.

Section 10 of the act provides:

"That if at any time hereafter any of the said Indians shall desire to become citizens of the United States they shall make application to the judge of the District Court of the United States for the District of Minnesota, and in open court make the same proof and take the same oath of allegiance as is provided by law for the naturalization of aliens * * * whereupon they shall be declared by the said court to be citizens of the United States, which declaration shall be entered of record and a certificate thereof given to said party. On the presentation of the said certificate to the Secretary of the Interior with satisfactory proof of identity, he may at the request of such person or persons cause the land severally held by them to be conveyed to them by patent in fee simple, with power of alienation, and may at the same time cause to be paid to them their proportion of all the moneys and effects of said tribe in trust by or under the provisions of any treaty or law of the United States."

The act approved March 3, 1871 (16 Stat. L., 565), provides as follows:

"For the proportion of one hundred and sixty persons of one million dollars placed to the credit of said Indians on the books of the Treasury as per fourth article of the treaty of November first, eighteen hundred and thirty-seven, whole number of tribe being fifteen hundred and thirty-one persons, one hundred and four thousand five hundred and six dollars and eighty-five cents. * * * For the proportion of one hundred and sixty persons of two hundred thousand dollars placed to the credit of the said Indians on the books of the Treasury, being the amount in part taken from their tribal funds to pay the expenses of their removal from Minnesota, provided for in public act numbered one hundred and eighty-seven, approved July fifteenth, eighteen hundred and seventy, whole number fifteen hundred and thirty one, twenty thousand nine hundred and one dollars and thirty seven cents. The foregoing amounts for said one hundred and sixty persons are appropriated from the sums respectively named standing to the credit of the Winnebagoes on the books of the Treasury and shall be deducted therefrom."

By the act of May 29, 1872 (17 Stat. L., 185), it is provided as follows:

"For this amount to be expended under the direction of the Secretary of the Interior, at such times and in such sums as he shall deem expedient, and necessary for the benefit of the Winnebago Tribe of Indians in improving their lands, purchasing stock and agricultural implements, erecting houses, providing schools, and in any other way promoting their civilization and comfort, said amount to be taken from the sum in the Treasury of the United States belonging to said Indians, one hundred thousand dollars.

"To enable the Secretary of the Interior to carry into effect the ninth and tenth sections of the act of July fifteenth, eighteen hundred and seventy, making appropriations for the current contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the year ending June thirtieth, eighteen hundred and seventy-one, and for other purposes, in the manner therein provided, ten thousand and seventy-one dollars and eighty-four cents." * * *

The act approved June 22, 1874 (18 Stat. L., 170), provides:

"For this amount, or so much thereof as may be necessary to purchase from the Omaha Indians in Nebraska such quantity of land, not exceeding twenty sections, as may be required for the use of the Winnebago Indians in Wisconsin, and for improvements on their reservation, to be appropriated from the residue of the one million one hundred thousand dollars provided to be set apart for the Winnebagoes by the fourth article of the treaty with those Indians, November first, eighteen hundred and thirty-seven: *Provided*, That such amount as may be paid to the Omahas for the lands required shall be applied for their use, under the direction of the Secretary of the Interior for general purposes of civilization, eighty-two thousand dollars."

The records of the office show that the total amount disbursed under the various acts herein quoted from the trust funds of the Winnebago Indians reduced the $1,100,000 fund to $804,909.17 and the $200,000 fund to $78,340.41, or a total of $883,249.58, which was capitalized by the act of March 3, 1909 (35 Stat. L., 798), and carried under the title "Winnebago fund," bearing interest at 5 per cent per annum.

The adjustment of the indebtedness of the Nebraska branch of the tribe to the Wisconsin branch is treated later on in this report.

Second. Under the provisions of the act of June 22, 1874, above referred to, some 12,347.55 acres were purchased from the Omaha Indians for the use of the Winnebago Indians in Wisconsin. The deed covering this purchase was dated July 31, 1874, and covers certain lands in township 20 north, of ranges 7, 8, and 9 east of the sixth principal meridian in Nebraska, the consideration paid being $30,868.87. This deed is recorded in Indian Deeds, volume 6 (M. 5–E), page 215.

While this purchase was authorized for the use of the Winnebago Indians in Wisconsin, the land was conveyed to the United States in trust for the "Winnebago Tribe" of Indians and was paid for from the common tribal funds and was considered as being the common property of the tribe, rather than for the exclusive use and benefit of the Winnebago Indians in Wisconsin.

When allotments in severalty were taken up with the Winnebago Indians in Nebraska, the allotting agent, under instructions approved by the department, was so directed to consider the matter, and the lands were allotted to members of the tribe belonging to the Nebraska branch; that is, to those members of the Winnebago Tribe enrolled at the agency in Nebraska and living on the reservation there, rather than making allotments to Winnebago Indians living in Wisconsin.

Under the provisions of the act of January 18, 1881 (21 Stat. L., 315), a large number of homesteads on the public domain were made to the Winnebago Indians of Wisconsin, and it is believed that practically all members of the Wisconsin branch, recognized and enrolled as members of the tribe, procured such homesteads in Wisconsin and elsewhere. These Indians, of course, would not be entitled to additional allotments within the so-called Wisconsin strip. The lands in this strip having been purchased with common tribal funds, were susceptible of allotment to recognized members of the tribe. Should any of the Winnebago Indians living in Wisconsin have returned to the reservation in Nebraska the allotment to such Indians from this so-called Wisconsin strip would have been perfectly proper, but the abandonment of tribal relations by the Wisconsin branch and obtaining homesteads on the public domain under the provisions of the act of January 18, 1881, would exhaust any separate claim they might have to the strip purchased from the Omaha Indians.

In regard to the appropriation of $36,000 for the removal of stray bands of Winnebago Indians, reference is hereby made to the act of July 15, 1870 (16 Stat. L., 359), as follows:

"For this amount, or as much thereof as may be necessary, to pay the expenses of the removal of stray bands of Pottawatomie and Winnebago Indians in Wisconsin from their present homes in that State to the tribes to which they respectively belong, as follows: For transportation and subsistence of one thousand Winnebagoes from Wisconsin to Nebraska, at fifteen dollars each, fifteen thousand dollars; for transportation of five hundred Pottawatomies and two hundred Chippewas intermarried with them from Wisconsin to the Indian country south of Kansas, at thirty dollars each, twenty-one thousand dollars."

Section 6 of the act approved May 29, 1872 (17 Stat. L., 190), provides:

"That the Secretary of the Interior be, and he is hereby, authorized to expend for the removal of the Winnebago Indians, in Wisconsin, from their present homes in that State to the Winnebago Reservation in Nebraska, or to such other location as may be selected for them, and for their subsistence during such removal and at their homes, the sum of thirty-six thousand dollars, or so much thereof as may be necessary, appropriated by the act of July fifteenth, eighteen hundred and seventy, for the removal of stray bands of Potawatomies and Winnebagoes from Wisconsin to the tribes to which they respectively belong."

The sum of $36,000, authorized by the act of July 15, 1870, was brought on the books of the Indian Office by warrant dated July 26, 1870, under the title "Removal of stray bands of Winnebagoes and Potawatomies in Wisconsin," and it is shown that $35,886.73 of the amount was expended during the period from 1873 to 1876, as provided by the act of May 29, 1872, above quoted. The sum of $35,886.73 was referred to in statement given a delegation of Wisconsin Winnebagoes about a year ago as the amount expended under the act of May 29, 1872, in their removal, etc., in 1873, which expense of removal is referred to in the act of January 18, 1881 (21 Stat. L., 315), but only the amount actually expended for those Indians was charged against them.

In order to fully understand the origin of the indebtedness of the Winnebagoes of Nebraska to the Winnebagoes of Wisconsin, the following is quoted from the act of June 25, 1864 (13 Stat. L., 172):

"For deficiencies in subsistence and expenses of removal and support of the Sioux and Winnebago Indians of Minnesota, during the fiscal year ending June thirtieth, eighteen hundred and sixty-four, one hundred and thirty-seven thousand two hundred and ninety-three dollars and forty cents: *Provided*, That the portion expended in behalf of the Winnebagoes shall be reimbursed to the Treasury upon the sale of their lands in Minnesota, to enable the Secretary of the Interior to take charge of certain stray bands of Winnebago and Potawatomi Indians now in the State of Wisconsin, with a view to prevent any further depredations by them upon the citizens of that State, and for provisions and subsistence, ten thousand dollars: *Provided*, That the proportion of annuities to which said stray bands of Potawatomies and Winnebagoes would be entitled if they were settled upon their reservations with their respective tribes shall be retained in the Treasury to their credit, from year to year, to be paid to them when they shall unite with their said tribes, or to be used by the Secretary of the Interior in defraying the expenses of their removal, or in settling and subsisting them on any other reservation which may hereafter be provided for them."

The foregoing explains why the expenses of removal of the Wisconsin Winnebagoes were charged to them in the adjustment of the indebtedness under the provisions of the act of January 18, 1881 (21 Stat. L., 315), as follows:

"Whereas a large number of the Winnebago Indians of Wisconsin have selected and settled in good faith upon homestead claims, under section fifteen of the act entitled 'An act making appropriations to supply deficiencies in the appropriations for the fiscal year ending June thirtieth, eighteen hundred and seventy-five, and prior years, and for other purposes,' approved March third, eighteen hundred and seventy-five, and all said Indians having signified their desire and purpose to abandon their tribal relations and adopt the habits and customs of civilized people and avail themselves of the benefits of the aforesaid act, but in many instances are unable to do so on account of their extreme poverty: and

"Whereas a portion of the funds belonging to said Winnebago Indians of Wisconsin and accruing under the act of June twenty-fifth, eighteen hundred and sixty-four, 'providing for deficiencies in subsistence and expenses of removal and support of the Sioux and Winnebago Indians of Minnesota,' amounting to the sum of ninety thousand six hundred and eighty-nine dollars and ninety-three cents, is now in the Treasury of the United States to their credit; and

"Whereas the major portion of the fund belonging to said Indians under said act of June twenty-fifth, eighteen hundred and sixty-four, together with the sum of one hundred thousand dollars of the principal fund of the tribe, has since said date been expended for the benefit of that portion of the Winnebago Indians residing in Nebraska; and

"Whereas the location of said Winnebago Indians of Wisconsin has, under the said act of March third, eighteen hundred and seventy-five, become permanent: Therefore

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Interior be, and he is hereby, authorized and directed to cause a census of the tribe of Winnebago Indians now residing in Nebraska and Wisconsin to be taken, said enrollment to be made upon separate lists, the first to include all of said tribe now residing upon or who draw their annuities at the tribal reservation in Nebraska and the second to embrace all of said tribe now residing in the State of Wisconsin.

"SEC. 2. That upon the completion of the census of the Winnebago Indians in Wisconsin the Secretary of the Interior is authorized and directed to expend for their benefit the proportion of the tribal annuities due to and set apart for said Indians under the act of June twenty-fifth, eighteen hundred and sixty-four, of the appropriations for the tribe of Winnebago Indians for the fiscal years eighteen hundred and seventy-four, eighteen hundred and seventy-five, eighteen hundred and seventy-six, eighteen hundred and seventy-seven, eighteen hundred and seventy-eight, eighteen

hundred and seventy-nine, and eighteen hundred and eighty, amounting to ninet thousand six hundred and eighty-nine dollars and ninety-three cents; and the Secr tary of the Interior shall also expend for the benefit of said Indians, out of the sum o forty-one thousand twelve dollars and seventy-four cents now in the Treasury t the credit of the Winnebago Tribe of Indians, and accruing under treaty appropria tions for the fiscal year eighteen hundred and seventy-three and prior years, such sum as may upon the completion of said census be found necessary to equalize the payments between the two bands on account of the payment of the sum of one hundre thousand dollars in the year eighteen hundred and seventy-two from the principal funds of the tribe to the Winnebagoes in Nebraska, and all of the said sums shall be paid pro rata to those persons whose names appear upon the census roll of the Winnebagoes of Wisconsin, heads of families being permitted to receive the full amount to which all the members of the family are entitled: * * *

"SEC. 3. That in the future distribution of the annuities of the said tribe of Winnebago Indians a pro rata division, according to the number of each band as shown by said census, shall be made between that portion of said tribe in Nebraska and that portion in Wisconsin, and the moneys belonging to each shall be annually distributed to the members of said bands, respectively, in the manner provided by the fifth section of the act of February twenty-first, eighteen hundred and sixty-three, entitled 'An act for the removal of the Winnebago Indians and for the sale of their reservation in Minnesota for their benefit.'

"Sec. 4. That for the purpose of equitably adjusting the amount due to the Winnebago Indians in Wisconsin, under the act of June twenty-fifth, eighteen hundred and sixty-four, from that portion of the tribe residing in Nebraska, and arising from the failure of the Department of the Interior to set aside from year to year the proportion of the tribal fund belonging to said Wisconsin Winnebagoes, as provided in said act, from the date of the passage of the same to the year eighteen hundred and seventy-six, and the payment of the full amount of the same to the Winnebagoes of Nebraska for such period, the Secretary of the Interior is hereby directed to have an account between said portions of the Winnebago Tribe of Indians stated, basing the same upon the census herein provided for, charging the Winnebagoes in Nebraska with the full amount found to be due to the Wisconsin Winnebagoes under said act for the period named, and crediting them with the amount actually expended in the removal and subsistence of the Wisconsin Winnebagoes at the date of their removal to Nebraska in the year eighteen hundred and seventy-three; and the balance found in favor of the Winnebagoes of Wisconsin, whatever the amount may be, shall hereafter be held and considered as a debt due to them from that portion of the tribe residing in Nebraska; and until said debt shall have been extinguished the Secretary of the Interior shall cause to be deducted annually from the proportion of annuity moneys due to the Winnebagoes in Nebraska, and to be paid to the Winnebago Indians in Wisconsin, such proportion of the share of annuities belonging to the said Winnebagoes of Nebraska as he may deem right and proper: *Provided, however*, That such sum shall not be less than seven thousand dollars per annum."

In the adjustment of the funds of both branches of the tribes under the terms of the act quoted, March 6, 1886, it was found and determined that the then existing indebtedness of the Nebraska branch of the tribe to those in Wisconsin amounted to $220,969.91. Deductions have been made annually from the proportion of annuity money due the Nebraska Winnebagoes and transferred to the share of those in Wisconsin, as provided by section 4 of the act of January 18, 1881, referred to, reducing the amount of the indebtedness January 1, 1911, to $42,469.91. In arriving at the amount of the indebtedness of $220,969.91 referred to, the office believes the rights and interests of both branches of the tribe were fully considered and that the amount of the indebtedness then determined should stand. Had the Wisconsin Winnebagoes remained in Nebraska with the other branch of the tribe there, they unquestionably would have participated equally in all payments made from time to time to members of the tribe under the acts herein mentioned. It is not apparent to the office that the Wisconsin Winnebagoes are entitled to any interest on the indebtedness determined under the act of January 18, 1881, supra.

Third. The act of March 3, 1909 (35 Stat. L., 798), providing for the capitalization of the Winnebago funds, etc., authorizes and directs the Secretary of the Interior "to cause a new enrollment to be made of all Winnebago Indians entitled to share in said fund other than those enrolled at the Winnebago Agency in Nebraska, and until the completion of said enrollment no part of said sum shall be distributed."

The roll authorized by the foregoing act was made by Special Agent Thomas Downs in 1909 and approved by the First Assistant Secretary of the Interior February 16, 1910. It contains the names of 1,265 persons entitled to share in the distribution of the funds due the Winnebago Indians of Wisconsin. The requirements of the act of

arch 3, 1909, providing for the enrollment in question have been complied with. he distribution of the funds of the Wisconsin Winnebagoes will be made upon the asis of the roll provided for by the act of March 3, 1909.

Fourth. The act of March 3, 1909, supra, also provides: "The proportionate share to the credit of the Winnebago Indians resident in Wisconsin shall be half in the Treasury of the United States, pending further legislation."

The draft of a bill was transmitted to Congress by department letter of February 6, 1911, printed in H. R. 32682, Sixty-first Congress, third session, providing, in effect, that as soon as a proper adjustment could be had of the claim of the Wisconsin branch of the tribe against the Winnebagoes in Nebraska the funds due the former could be expended for the benefit of the members thereof in the judgment and discretion of the Secretary of the Interior. In the event that the bill referred to becomes a law it is improbable that the funds due the Wisconsin Winnebagoes will be paid to them in a lump sum, but rather will be used from time to time for their best interests, in the discretion of the Secretary of the Interior.

Respectfully,

C. F. HAUKE,
Acting Commissioner.

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